

ASSEMBLY BILL

No. 757

Introduced by Assembly Member Chan

February 18, 2005

An act relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 757, as introduced, Chan. Health care providers: contracts.

Existing law provides for the regulation of health care service plans by the Department of Managed Health Care, and for the regulation of disability insurers by the Insurance Commissioner. Existing law, with respect to contracts providing for the payment of preferred reimbursement rates by payors or health care services rendered by health care providers, imposes certain disclosure and related requirements on contracting agents, as defined, who sell, lease, assign, transfer, or convey a list of contracting providers and their contracted preferred reimbursement rates to other payors or contracting agents.

This bill would make specified findings and declarations with regard to silent preferred provider organizations and the resulting unfair practices and harm to patients. The bill would declare the intent of the Legislature to enact legislation that would provide more equity in contracting in order to promote patient care.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:

(a) Silent preferred provider organizations result when contracting agents sell or rent the names and reimbursement rates of their contracted health care providers to third parties, allowing contracting agents to gain additional revenue and third parties to take advantage of a provider's discounted rate, even though they may not be entitled to it.

(b) Despite current protections in the law, many health care providers are unaware that they have agreed to have their names and rates sold to other payors, often for no benefits in return.

(c) While current law, authored initially by Senator Brulte in Senate Bill 559 of the 1999 Legislative Session, attempted to prevent these unfair practices, loopholes remain, such as the following:

(1) Providers are still being forced to allow the selling or renting of their names and contract rates through "take it or leave it" contracts.

(2) Other payors often take advantage of discounted contracted rates without providing any benefits to the provider, such as the referral of patients.

(3) Provider names and discounted rates are being sold or rented to other payors offering a completely different product that requires a different level and scope of service than that contracted for in the underlying contract.

(4) All of the above still occurs, even after termination of the underlying contract.

(d) Furthermore, patients are harmed by the described activities in the following ways:

(1) Patients' expectations concerning the level of care provided by out-of-network physicians are defeated.

(2) Their providers are being forced to accept larger patient loads than they can financially or ethically handle, potentially compromising quality and care.

(3) Patients are being billed by providers that are unaware that their name and discounted rates were sold to the patient's payor.

(4) Patients are experiencing decreased access to care altogether, as providers are increasingly unable to enter into managed care contracts with such unfair provisions.

(e) More protections are needed to end these abusive practices. The Legislature intends to enact legislation that would provide more equity in contracting in order to promote patient care.

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